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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,094	08/09/2006	Thomas Baumeister	2004P00729WOUS	5490

46726 7590 12/08/2009
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

SULLIVAN, MATTHEW J

ART UNIT	PAPER NUMBER
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3677

NOTIFICATION DATE	DELIVERY MODE
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12/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/589,094	Applicant(s) BAUMEISTER ET AL.	
	Examiner MATTHEW SULLIVAN	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 7/20/09 have been fully considered but they are not persuasive.

Applicant has set forth several arguments; first, that the Bartmann reference does not demonstrate the limitation of the gripping element being "movably mounted at least largely independently of a position of the appliance door", second, that the additional prior art of Morawetz, Harling, and Kawanabe fail to address the shortcomings of Bartmann, and, third, Bartmann, Morawetz, Harling, and Kawanabe are non-analogous art.

Regarding the first argument, Examiner disagrees. Although Bartmann does teach a gripping element that is coupled to the door, within the limitation of the claims Bartmann teaches the gripping member "movably mounted at least largely independently of a position of the appliance door", see Col 9, Line 62 - Col 10, Line 5. This paragraph clearly demonstrates that the gripping element is not exclusively dependent on the appliance door position and that the springs function to allow the grip to move independently of the door position at any door position.

Regarding the second argument, Examiner considers this position moot in view of the teachings of Bartmann.

In response to applicant's argument that Morawetz, Harling and Kawanabe are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem

with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Morawetz deals with stabilizing the position of a hinge, Harling deals with sensor units on grips and Kawanabe deals with damping hinges on a cabinet. All these applications are considered pertinent to problems which the Applicant is attempting to solve.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 21, 22, 29, 30, 33, 39 and 41 are rejected under 35 U.S.C. 102(a) as being anticipated by Bartmann, U.S. Patent 7,252,082 (8/7/07 – PCT filed 2/27/02).

Bartmann clearly teaches a device comprising a gripping element (13) of an appliance door moveable relative to the appliance door during a door movement of the appliance door with the grip element adapting its movement to the movement of the hand of a user, **[Claim 21]**.

Regarding **Claim 22**, Bartmann teaches the gripping element movably mounted at least largely independently of a position of the appliance.

Regarding **Claims 29 and 30**, Bartmann teaches the gripping element mountable on the appliance door so that it can pivot about a pivoting axis (defined by elements 19)

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and that pivoting axis running substantially parallel to a pivoting axis of the appliance door.

Regarding **Claims 39** and **33**, Bartmann teaches a drive element for driving movement of the gripping means and a restoring means to automatically move the gripping element into a base position when the door is closed (see elements 39, 43, 45-47).

Regarding **Claim 41**, Bartmann teaches a household appliance (1) comprising a chamber having an opening (3), an appliance door (5) pivotable about a pivoting axis (12) to close the opening of the chamber and the gripping element adapts to a movement of a hand of a user that is moving the appliance door.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-28, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartmann in view of Morawetz, U.S. Patent 5,918,347 (7/6/99).

All the aspects of the instant invention are disclosed above but for a stabilizing unit for stabilizing the gripping element in at least one position. Morawetz does teach a stabilizing unit (fig. 4) for stabilizing a hinge in at least one position. At the time of the

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invention it would have been obvious to one of ordinary skill in the art to provide the features of Bartmann with the features of Morawetz because a stabilizing unit would provide the most convenient handle position for a regular user, **[Claim 23]**.

Regarding **Claims 24 and 28**, Morawetz further teaches the stabilizing unit stabilizing the gripping element in at least one position (see fig. 4) and also in a plurality of locating positions (see 8, 17).

Regarding **Claim 25**, Morawetz teaches the stabilizing unit comprising at least one locating unit (see elements 8-11, 17).

Regarding **Claim 26**, Morawetz teaches the locating unit includes at least one ribbed partial area (see 8, 17).

Regarding **Claim 27**, Morawetz teaches the stabilizing unit including a spring-loaded locating element (see 9-11).

Regarding **Claim 31**, Morawetz teaches a means for releasing the stabilizing unit in at least one position (see element 24).

Regarding **Claim 32**, Morawetz teaches a means for releasing a locating connecting during a closing movement (see element 24).

Claims 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartmann as applied to claims 21, 22, 29, 30, 33 and 39 above, and further in view of Harling, U.S. Patent 5,953,644 (9/21/99).

All the aspects of the instant invention are disclosed above but for a sensor unit for sensing a user characteristic. Harling does teach a sensor unit for sensing

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movement characteristic of a gripping element (see element 20, Col 3, Lines 21-30), a switching means which can be switched by means of the gripping element (Col 4, Lines 10-22), a handle for a device with a sensor unit for sensing a user characteristic (see summary of invention), and, lastly, a control unit for processing signals from the sensor unit/units (element 30), **[Claims 35-38]**. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide Bartmann with the sensing and processing structure of Harling because biometric sensing technology is ideally suited to restricted yet regularly accessed areas or devices such as hot stoves and a processing unit is necessary to accurately manage and use the sensing technology.

Claims 34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartmann as applied to claims 21, 22, 29, 30, 33 and 39 above, and further in view of Kawanabe, U.S. Patent Application Publication 2001/0020811 (9/13/01).

All the aspects of the instant invention are disclosed above but for the grip element comprising at least two independent degrees of freedom of movement and a damping element for damping movement of the gripping element. Kawanabe teaches an appliance door with a damper to damp the movement of the door (30) and also teaches the door being moved having two independent degrees of freedom. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide the rotatable handle of Bartmann with a damper as taught by Pelletier because damping is well known in the art to modulate motion which would prevent "snap back" of the handle and therefore improve safety of the device and multiple degrees of freedom provide a more ergonomic action for a handle user, **[Claims 34, 40]**.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MATTHEW SULLIVAN** whose telephone number is (571)270-5218. The examiner can normally be reached on Mon-Thurs, 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677

/MATTHEW SULLIVAN/
Examiner, Art Unit 3677